

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FELIPE ROCHA,

Petitioner,

vs.

ROBERT A. HOREL, Warden,

Respondent.

No. C 07-3295 CRB (PR)

ORDER DENYING
CERTIFICATE OF
APPEALABILITY

(Docs # 15 & 16)

Petitioner has filed a notice of appeal and request for a certificate of appealability (COA) under 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b). He also seeks leave to proceed in forma pauperis on appeal.

Petitioner's request for a COA (doc # 15) is DENIED because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not demonstrated that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Based on his affidavit of poverty, petitioner's request to proceed in forma pauperis on appeal (doc # 16) is GRANTED.

The clerk shall forward to the court of appeals the case file with this order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

SO ORDERED.

DATED: **SEP 25 2008**


CHARLES R. BREYER
United States District Judge